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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,000	02/14/2002	Pascal Agin	Q68412	6662

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EXAMINER
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APPIAH, CHARLES NANA

ART UNIT	PAPER NUMBER
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2686

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/074,000

Applicant(s)

AGIN, PASCAL

Examiner

Charles N. Appiah

Art Unit

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12, 13, 15-17, 19, 20, 24-27 and 29-32 is/are rejected.
- 7) ☒ Claim(s) 10, 11, 14, 18, 21-23 and 28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

### ***Double Patenting***

2. Claim 27 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 26. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-4, 8, 12, 13, 17, 24-26, 27, 31 and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Aksentijevic et al. (6,738,624).

Regarding claims 1, 12 and 13 Aksentijevic discloses a method of managing processing resources in a mobile radio system in which a first entity (RNC 112) manages radio resources and corresponding processing resources, the processing resources being provided in a second entity (base station Node B 114), separate from the first entity, a mobile radio system and a base station controller for managing radio resources and corresponding resources in a mobile radio system including a base station providing the radio resources, the method comprising: transmitting from the second entity to the first entity, a capacity credit, (processing capacity report signal generated and sent from Node B to the RNC, see col. 3, lines 46-54), and a consumption law (ABR is a measure or amount of Node B processing capacity, see col. 5, lines 35-42), for updating the capacity credit as a function of at least a spreading factor, and updating at the first entity the capacity credit on the basis of the consumption law (feature of RNC's approximations and modeling of the dynamic processing capacity, see col. 6, lines 33- 57), which meets the means for, in the case of a variable spreading factor and/or a variable number of spreading codes, the updating is effected on the basis of a reference spreading factor and/or a reference number of spreading codes.

Regarding claims 2, 3 and 4 Aksentijevic further discloses wherein the reference spreading factor corresponds to a minimum spreading factor and the reference number of spreading codes is a maximum number of spreading codes (use of low end of spreading factor values, see col. 4, lines 12-18).

Regarding claim 8, Aksentijevic further discloses wherein the spreading factor has a calculated value (see col. 3, lines 1-10).

Regarding claim 24, Aksentijevic discloses (see Figs. 2-12), a radio network controller (RNC 112) comprising means for receiving from a base station (Node B 114), a capacity credit (processing capacity report signal generated and sent from Node B to the RNC, see col. 3, lines 46-54), and a consumption law (ABR is a measure or amount of Node B processing capacity, see col. 5, lines 35-42), and means for updating the capacity credit on the basis of a reference spreading factor (feature of RNC's approximations and modeling of the dynamic processing capacity, see col. 6, lines 33-57), which meets the means for, in the case of a variable spreading factor, updating the capacity credit on a basis of a reference spreading factor.

Regarding claim 25, Aksentijevic further discloses wherein the reference spreading factor corresponds to a minimum spreading factor (use of low end of spreading factor values, see col. 4, lines 12-18).

Regarding claims 17, 26 and 27, Aksentijevic further discloses wherein the reference spreading factor is signaled to the radio network controller in a message "Radio Link Setup Request Message (see col. 6, lines 49-60).

Regarding claims 31 and 32 Aksentijevic discloses a radio network controller comprising means for receiving from a base station a capacity credit (processing capacity report signal generated and sent from Node B to the RNC, see col. 3, lines 46-54), and a dedicated channels capacity consumption law (ABR is a measure or amount of Node B processing capacity, see col. 5, lines 35-42), means for updating the capacity credit (feature of RNC's approximations and modeling of the dynamic processing capacity, see col. 6, lines 33- 57), which meets the means, in the case of a variable spreading factor, and for PCPCH, updating the capacity credit on the basis of a reference spreading factor signaled to the radio network controller in an Radio Link Setup Request Message and calculated from a TFCS

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5-7, 9, 15, 16, 19, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aksentijevic et al as applied to claims 1, 2, 8 and 13 above, and further in view of Well Known Prior Art (Official Notice).

Regarding claims 5 and 6, Aksentijevic fails to explicitly teach wherein the minimum spreading factor is a function of the type of a service in particular and the minimum spreading factor is adjustable by operation and maintenance means.

Examiner maintains that the concept of selecting a minimum spreading factor based on a particular service, as well as adjusting the minimum spreading factor by operation and maintenance means was well known in the art and as such Official Notice is taken that it would have been obvious to one of ordinary skill in the art to ensure that the minimum spreading factor can be selected based on a particular service as well the adjustment of the factor by operation and maintenance means in order to provide a high quality of service to subscribers.

Regarding claims 7, 9, 15, 16, 19 and 29 and 30, Aksentijevic further discloses wherein the first entity corresponds to a controlling network controller (RNC 112), but fails to disclose that the minimum spreading factor is signaled to the first entity by a separate entity corresponding to a serving radio network controller and the calculated value for the spreading factor is obtained from a parameter corresponding to a transport format combination set.

Examiner takes Official Notice that the concept of signaling spreading factors and/or codes by a serving radio network controller as well as calculating a spreading factor from a parameter corresponding to a transport format combination set is very well known in the art and as such it would have been obvious to one of one of ordinary skill in the art to provide for the signaling of spreading factors using different network controllers such as a serving network controller for handover purposes as well calculating a spreading factor using a parameter corresponding to a transport format combination set in order to allocate resources appropriately.

Regarding claim 20, Aksentijevic further discloses wherein the minimum spreading factor is signaled in "Radio Link Setup Request Message and wherein the first entity corresponds to a controlling radio network controller and comprises means for receiving a minimum spreading factor signaled to the first entity by a separate entity corresponding to a serving radio network controller (see col. 6, lines 49-60).

***Allowable Subject Matter***

7. Claims 10, 11, 14,18, 21, 22, 23 and , 28, objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Andersson et al. (6,434,380) discloses a system for dynamic negotiation of resources using capacity management.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Appiah whose telephone number is 571 272-7904. The examiner can normally be reached on M-F 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on 571 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CA

  
**CHARLES APPIAH**  
**PRIMARY EXAMINER**